

§ 1.178

application number and filing date. The Office may correct by certificate of correction under § 1.322 any reissue patent resulting from an application to which this paragraph applies that does not contain the required notice.

(b) If applicant files more than one application for the reissue of a single patent, each claim of the patent being reissued must be presented in each of the reissue applications as an amended, unamended, or canceled (shown in brackets) claim, with each such claim bearing the same number as in the patent being reissued. The same claim of the patent being reissued may not be presented in its original unamended form for examination in more than one of such multiple reissue applications. The numbering of any added claims in any of the multiple reissue applications must follow the number of the highest numbered original patent claim.

(c) If any one of the several reissue applications by itself fails to correct an error in the original patent as required by 35 U.S.C. 251 but is otherwise in condition for allowance, the Office may suspend action in the allowable application until all issues are resolved as to at least one of the remaining reissue applications. The Office may also merge two or more of the multiple reissue applications into a single reissue application. No reissue application containing only unamended patent claims and not correcting an error in the original patent will be passed to issue by itself.

[65 FR 54676, Sept. 8, 2000]

§ 1.178 Original patent; continuing duty of applicant.

(a) The application for reissue of a patent shall constitute an offer to surrender that patent, and the surrender shall take effect upon reissue of the patent. Until a reissue application is granted, the original patent shall remain in effect.

(b) In any reissue application before the Office, the applicant must call to the attention of the Office any prior or concurrent proceedings in which the patent (for which reissue is requested) is or was involved, such as interferences or trials before the Patent Trial and Appeal Board, reissues, reex-

aminations, or litigations and the results of such proceedings (see also § 1.173(a)(1)).

[65 FR 54676, Sept. 8, 2000, as amended at 69 FR 56544, Sept. 21, 2004; 77 FR 46625, Aug. 6, 2012]

§ 1.179 [Reserved]

PETITIONS AND ACTION BY THE DIRECTOR

AUTHORITY: 35 U.S.C. 6; 15 U.S.C. 1113, 1123.

§ 1.181 Petition to the Director.

(a) Petition may be taken to the Director:

(1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Patent Trial and Appeal Board or to the court;

(2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and

(3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Patent Trial and Appeal Board, see § 41.3 of this title.

(b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.

(c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.

(d) Where a fee is required for a petition to the Director the appropriate